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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,293	07/21/2003	Clay E. Towery	35197.20	7383

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HAYNES AND BOONE, LLP
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EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT	PAPER NUMBER
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2621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/624,293

Applicant(s)

TOWERY ET AL.

Examiner

Andy S. Rao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/7/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/2/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restriction

1. The Applicant's arguments with regards to election requirement of 11/13/06 are persuasive, and the requirement has been withdrawn.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an

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international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Kendir et al., (hereinafter referred to as "Kendir").

Kendir discloses an apparatus (Kendir: figures 1A-1B) comprising a firearm sight (Kendir: paragraph [0031], lines 15-24) which includes: a viewing section that permits a user to view an image of a target in association with a reticle (Kendir: paragraph [0042], lines 1-10); a sensing section for detecting a physical movement of said firearm sight which is characteristic of a firing pin striking a cartridge (Kendir: paragraph [0034], lines 13-23); and an imaging section responsive to detection by said sensing section of said physical movement for saving an image of the target and said reticle from a point in time just prior to detection of said physical movement (Kendir: paragraph [0041], lines 1-10), as in claim 1.

Regarding claim 2, Kendir discloses wherein said imaging section is responsive to detection by said sensing section of said physical movement for saving a sequence of images of the target and said reticle from a time interval which begins before detection of said physical movement, one of said images in said sequence being said image from said point in time (Kendir: paragraph [0062], lines 1-14), as in the claims.

Regarding claims 3-4, Kendir discloses wherein said image saved by said imaging section is a digital image (Kendir: paragraph [0038], lines 4-14), as in the claims.

Regarding claims 5-6, Kendir discloses wherein said sensing section includes a solid state electronic accelerometer (Kendir: paragraph [0089], lines 5-25), as in the claims.

Kendir discloses an apparatus (Kendir: figures 1A-1B) comprising a viewing section which permits a user to view an image of a scene in association with a digital reticle (Kendir: paragraph [0042], lines 1-10), said viewing section including a reticle adjustment portion which facilitates digital adjustment of the position of said reticle relative to the image (Kendir: paragraph [0045], lines 10-18), as in claim 7.

Regarding claim 8, Kendir discloses wherein said reticle adjustment portion permits a user to manually effect said adjustment of the position of said reticle (Kendir: paragraph [0045], lines 1-9), as in the claim.

Regarding claim 9, Kendir discloses wherein said reticle adjustment portion permits a user to manually effect said adjustment of the position of said reticle independently in two different directions (Kendir: paragraph [0044], lines 1-8), as in the claim.

Regarding claim 10, Kendir discloses wherein said viewing section includes: an image detector capable of producing a sequence of digital images of said scene (Kendir: paragraph [0041], lines 1-15); and a display which is visible to a user and on which said viewing section presents said sequence of digital images with said digital reticle superimposed thereon (Kendir: paragraph [0046], lines 1-30), said reticle adjustment portion effecting adjustment of the position of said reticle by changing the position at which said reticle is superimposed on said display (Kendir: paragraph [0048], lines 30-50), as in the claim.

Regarding claim 11, Kendir discloses to Claim 7, including a rifle sight, said viewing section being a portion of said rifle sight (Kendir: paragraph [0031], lines 5-25), as in the claim.

Kendir discloses an apparatus (Kendir: figures 1A-1B) comprising a sight having a viewing section and having a port through which a digital reticle (Kendir: paragraph [0042],

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lines 1-10) can be introduced electronically into said viewing section from externally of said sight (Kendir: paragraph [0036], lines 1-30), said viewing section permitting a user to view an image of a scene in association with a digital reticle received through said port (Kendir: paragraph [0046], lines 1-35), as in claim 12.

Regarding claim 13, Kendir discloses wherein said viewing section includes: an image detector capable of producing a sequence of digital images of said scene (Kendir: paragraph [0041], lines 1-15); and a display which is visible to a user and on which said viewing section presents said sequence of digital images with the digital reticle superimposed thereon (Kendir: paragraph [0046], lines 1-35), as in the claim.

Regarding claim 14, Kendir discloses wherein said sight is a rifle sight (Kendir: paragraph [0031], lines 15-25), as in the claim.

Kendir discloses an apparatus (Kendir: figures 1A-1B) comprising a firearm sight with a viewing section (Kendir: paragraph [0031], lines 15-25) which includes: an image detector capable of producing a sequence of digital images of a target (Kendir: paragraph [0041], lines 1-15); a display on which said viewing section presents said sequence of digital images, said display being visible to a user and having a resolution which is less than a resolution of said image detector (Kendir: paragraph [0046], lines 1-30); and a digital zoom portion which can digitally change an effective size of said digital images as presented on said display (Kendir: paragraph [0054], lines 1-10), as in claim 15.

Kendir discloses an apparatus (Kendir: figures 1A-1B) comprising: a viewing section which permits a user to view an image of a scene in association with a reticle (Kendir: paragraph [0042], lines 1-10); a sensing portion for detecting movement of said viewing section which has

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a component approximately transverse to a line extending from said scene to said viewing section (Kendir: paragraph [0034], lines 13-23); and a further section for providing the user with information based on said movement of said viewing section detected by said sensing portion (Kendir: paragraph [0046], lines 10-20), as in claim 16.

Regarding claims 17-18, Kendir discloses wherein said information provided by said further section includes an indicator which is presented in association with said scene and said reticle, and which has a size that is varied as a function of changes in said movement of said viewing section as detected by said sensing portion (Kendir: paragraph [0062], lines 10-20), as in the claim:

Regarding claim 19, Kendir discloses wherein said movement detected by said sensing portion is a rate of angular movement of said viewing section with respect to a vertical reference (Kendir: paragraph [0052], lines 1-25), as in the claim.

Regarding claim 20, Kendir discloses including a rifle sight, said viewing section, sensing portion and further section being respective portions of said rifle sight (Kendir: paragraph [0031], lines 1-30), as in the claim.

Kendir discloses an apparatus (Kendir: figures 1A-1B) comprising a firearm sight (Kendir: [0031], lines 15-24) which includes: a viewing section configured to permit a user to view an image of a scene in association with a digital reticle (Kendir: paragraph [0042], lines 1-10); a reticle adjustment digital adjustment of the portion which facilitates position of said reticle relative to said image (Kendir: paragraph [0045], lines 1-20), said reticle adjustment portion being responsive to radiation received by said firearm sight which is representative of a position

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of a firearm bore for automatically adjusting the position of said reticle to effect an alignment of said reticle in relation to the firearm bore (Kendir: paragraph [0034], lines 1-10), as in claim 21.

Regarding claims 22-23, Kendir discloses wherein said reticle adjustment portion effects said automatic adjusting of the position of said reticle in a manner which includes determining a centroid of said reflection of said image detector, and then adjusting the position of said reticle relative to said centroid (Kendir: paragraph [0043], lines 1-12), as in the claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hope discloses an optical imaging device for firearm scope attachment. Zaenglein discloses a shooting simulating process and training device using a virtual reality displaying screen. Lenner discloses processor aided firing of small arms. Matthews discloses firearms and laser beam aim assisting methods and apparatus.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao
Primary Examiner
Art Unit 2621

asr
March 2, 2007

ANDY RAO
PRIMARY EXAMINER